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17 UNITED STATES BANKRUPTCY COURT

18 CENTRAL DISTRICT OF CALIFORNIA

19 NORTHERN DIVISION

20 In re:) Case No.: 9:19-BK-11573-MB
21 HVI CAT CANYON, INC.,) Chapter 11
22 Debtor.) **RESPONSE TO REPLY OF THE OFFICIAL
23 COMMITTEE OF UNSECURED CREDITORS TO
24 CALIFORNIA STATE LAND COMMISSION'S
25 LIMITED OBJECTION TO THE MOTION OF THE
26 OFFICIAL COMMITTEE OF UNSECURED
27 CREDITORS FOR AN ORDER (I) ESTABLISHING
28 INFORMATION SHARING PROCEDURES AND
INFORMATION SHARING PROCEDURES AND
) **(II) GRANTING RELATED RELIEF**
[Relates to Docket Nos. 223, 348, and 391]
Hearing Date: October 28, 2019
Hearing Time: 10:00 a.m.
Place: Courtroom 201**

1) U.S. Bankruptcy Court
2) 1415 State Street, Courtroom 202
3) Santa Barbara, CA 93101

4) Judge: The Honorable Martin R. Barash

5 The California State Lands Commission (the “Commission”) respectfully submits this
6 response to the reply (the “Reply”) [Docket No. 391] filed by the Official Committee of
7 Unsecured Creditors (the “Committee”) in connection with the Committee’s Motion for an Order
8 Establishing Information Sharing Procedures (the “Information Procedures Motion”).

9 In the Reply, the Committee did not address the critical fact raised by the Commission –
10 namely, that the Court was likely to appoint a Chapter 11 trustee. Since the Commission filed its
11 limited objection to the Information Procedures Motion, the Court directed the Office of the U.S.
12 Trustee to appoint a Chapter 11 trustee. [Docket No. 409] As set forth in the Commission’s
13 limited objection, with a trustee in place, it is no longer necessary for the Committee to control
14 access to information. The Information Procedures Motion is now moot. The trustee will now
15 control access to the Debtor’s accounts, documents, data, and related company files. If the trustee
16 believes that his or her role in allowing access to information requires clarification, he or she can
17 request such clarification from the Court.

18 The Reply focused, instead, on the fact that other bankruptcy courts have entered orders
19 similar to the order that the Committee is requesting here. The Reply provided a laundry list of
20 twelve cases in which such orders have been entered. Notably, only one of those twelve cases
21 involved the appointment of a Chapter 11 trustee.¹ And even in that case, the Chapter 11 trustee
22 was appointed *after* the committee in that case and sought and obtained the type of information-
23 sharing procedures order that the Committee is seeking in the Information Procedures Motion.²
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26 ¹ The only case cited by the Committee that involved the appointment of a Chapter 11
trustee is *In re Mairec Precious Metals, Inc.*, Case No. 19-01198 (Bankr. D. S.C.).

27 ² In *In re Mairec Precious Metals*, the order pertaining to information-sharing procedures
28 was entered on April 30, 2019. A Chapter 11 trustee was subsequently appointed on May 17,
2019. *See id.*, ECF No. 242.

1 The Commission maintains that the requested relief has been rendered unnecessary with
2 the appointment of a Chapter 11 trustee. In the wake of the order authorizing the appointment of a
3 trustee, the Court should deny the artificial motion of the Committee seeking to control access to
4 information. The Information Procedures Motion is moot.

5 In sum, the Commission respectfully requests that the Court deny the Information
6 Procedures Motion.

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8 Dated: October 21, 2019

LOEB & LOEB LLP

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10 By: /s/ Marc S. Cohen

11 Marc S. Cohen

12 *Attorneys for the California State Lands Commission*

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